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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91175479
Party	Plaintiff Citigroup Inc.
Correspondence Address	Jonathan Moskin White & Case LLP 1155 Avenue of the Americas New York, NY 10036 UNITED STATES jmoskin@whitecase.com,trademarkdocket@whitecase.com,smutzer@whitecase.com
Submission	Motion to Compel Discovery
Filer's Name	Jonathan Moskin
Filer's e-mail	jmoskin@whitecase.com, smutzer@whitecase.com, trademarkdocket@whitecase.com
Signature	/Jonathan Moskin/
Date	12/12/2008
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

CITIGROUP INC.,

Opposer,

-against-

MCGOWAN COMMUNICATIONS, LLC,

Applicant.

Opposition No. 91175479

Serial No. 78486089

OPPOSER'S RENEWED MOTION TO COMPEL

Pursuant to Trademark Rules of Practice, Rule 2.120(e), and Rule 37 of the Federal Rules of Civil Procedure, Opposer, Citigroup Inc. ("Opposer" or "Citigroup"), hereby resubmits its motion to compel applicant, McGowan Communications, LLC ("Applicant" or "McGowan"), to respond to interrogatories and document requests and to produce one or more witnesses pursuant to Opposer's two deposition notices. Submitted herewith as Exhibits A-D are copies of Opposer's discovery requests in issue. As set forth below, Opposer has repeatedly conferred with Applicant in a good faith effort to resolve this matter.

On July 5, 2007, shortly after discovery opened, Citigroup served interrogatories and document requests on Applicant (Exs. A and B hereto), and more recently, on December 3, 2008, served on Applicant a 30(b)(6) deposition notice and a deposition notice directed to the individual understood to be its principal, Robert McGowan (Exs. C and D hereto). The time for Applicant to serve formal responses to either the interrogatories or document requests has long-since expired without any responses and without any extension of time to respond, and Applicant has acknowledged it was unable to produce a witness (or witnesses) on the noticed date because he was traveling. As we have explained to Applicant's counsel, Citigroup would, at any rate,

require responses to the written discovery requests, and production of any relevant documents, before it could proceed properly with the examination of any witness.

Opposer is grateful for the opportunity to resubmit this motion. As noted (albeit briefly in a footnote) Opposer did not attach copies of the subject discovery requests because no responses had been served and hence no issues were raised as to the substance of the (non-existent) responses. Opposer thus wished to avoid needlessly burdening the Board with unnecessary paper.¹ Applicant has not disputed any of the requests; it simply has not answered them. Nor has Applicant disputed that it would have to appear for a deposition; it has simply noted it could not do so within the existing discovery period because the witness was traveling. Applicant is apparently willing to produce a witness provided some additional time is allowed. Hence the motion simply seeks to set an order directing the times for Applicant to respond.

The Board is also correct that Opposer's motion is made specifically because discovery is closing, yet efforts to settle the case or obtain responses to discovery have been unavailing. However, rather than wait until after the close of discovery (but before the commencement of the trial period as contemplated and expressly permitted under Rule 2.120(e)(1)), Opposer moved before the close of discovery because of the possibility there would be a need for some follow up. In so doing, we are not seeking to vilify Applicant for failure to respond to discovery, but, precisely because of the length of time this case has been pending, and because efforts to settle

¹ It is also had been the undersigned counsel's understanding of Rule 2.120(e)(1) that the purpose of submitting written discovery requests is simply to provide a context to understanding any disputed response. Hence the rule requires "a copy of the interrogatory with any answer or objection made" (emphasis added). No answer or objection was here made by Applicant. Similarly, document requests are to be accompanied by "any proffer of production or objection to production to the request..." Again, Applicant here made no such proffer or objection. Nonetheless, Opposer appreciates the clarification of the rule.

the case have reached an impasse, simply to set a schedule for the orderly completion of discovery noticed long ago.

As also noted, the parties have been having ongoing (albeit at times intermittent) settlement discussions. Opposer did not delay serving its discovery requests because of those discussions. To the contrary, it initiated discovery at the outset of the discovery period in August 2007. However, Opposer had been reluctant to move to compel so long as settlement discussions showed some reasonable likelihood of success. Nor did Opposer delay serving deposition notices because of the settlement discussions. Rather, as noted in its motion yesterday, it could not proceed with depositions without responses to its written discovery and production of documents. Once it became clear there was no immediate prospect of settlement, it became imperative to serve the deposition notices even without receipt of responses or documents.

The parties' settlement discussions have been intertwined with repeated reminders by Opposer that the lack of information not only impeded settlement, but that the lack of evidence was increasingly inclining Opposer to believe the Applicant lacked any actual plans to use the subject intent-to-use application (for Chinese characters translated to mean "Universal Card"). Although it is difficult, without disclosing settlement discussions, to address in great specificity the reminders by Opposer of the need for information concerning Applicant's use or planned use (if any) of its mark as requested in its written discovery requests, when the undersigned last spoke with opposing counsel in November, shortly before moving to compel, Opposer communicated its view that because settlement discussions had stalled, and because Opposer had concluded Applicant had abandoned its interest in the subject intent-to-use application herein, discovery would have to be completed so as to allow the case to be resolved on the merits. In

short, what Applicant's counsel repeatedly has advised when we have asked for dates to complete discovery or to try to gain further information to make progress towards settlement (including in the last conversation before moving to compel) is that his client frequently travels and is unavailable. Similarly, in response to the deposition notices served by Opposer, when the parties conferred before moving to compel, Applicant's counsel did not challenge the notices as such but simply noted that his client was traveling. Opposer, having concluded there is at this time little reasonable opportunity to settle, thus simply wishes to establish a deadline to complete discovery timely notices at the outset of the discovery period – particularly given Applicant's stated travel commitments.

Opposer is further aware that under TBMP 403.04 discovery must be timely initiated, and extensions of discovery must be based on good cause. However, Opposer believes Applicant's very failure to answer written discovery timely initiated by Opposer at the outset of discovery should itself constitute good cause. Nor should Opposer be precluded from receiving responses to its discovery requests because it allowed time for settlement discussions that only recently have met an impasse. Certainly Applicant should not be freed from its discovery obligations when Opposer has done nothing outside the discovery rules or the scheduling orders entered by the Board. Opposer is not seeking to reopen discovery, which still has not closed, and this does not believe a showing of excusable neglect under TBMP 509.02 is appropriate. Moreover, as noted, Rule 2.120(e)(1) expressly authorizes a motion to compel at any time prior to commencement of the trial period. So long as there remained meaningful prospects of settlement, Opposer understood it would not be prejudiced in its right to complete discovery properly noticed within the discovery periods provided by the Board.

Opposer requests that following the suspension of the discovery times and times for trial herein, Opposer be afforded time to complete such discovery, and should not be foreclosed from conducting appropriate follow-up discovery should that be necessary. As previously noted in its original motion, Opposer is unaware of any steps at any time taken by Applicant, either before filing its intent to use application on September 20, 2004 or in the more than four years since, to use or attempt to use the subject mark. Nor is Opposer aware of any related business (or indeed any business whatsoever) conducted by Applicant. Opposer thus believes that discovery will confirm that even if the Applicant did at some time have some intent to use the mark in issue (which itself is hardly clear), it has long since abandoned any such plans, which explains its inability to respond to discovery or to defend this case in any way. Hence, because of the difficulty Opposer has had receiving responses to written discovery and, thus, in scheduling depositions, Opposer requests that a time certain be set for Applicant to serve written responses to Applicant's document requests and interrogatories, to produce any and all responsive documents, and to make available its witness(es) for depositions as noticed so that this matter can be brought to a resolution.

Dated: New York, New York
December 12, 2008

Respectfully Submitted,

WHITE & CASE LLP

By: 

Jonathan Moskin

Stefan M. Mentzer

1155 Avenue of the Americas
New York, New York 10036
212 819 8200

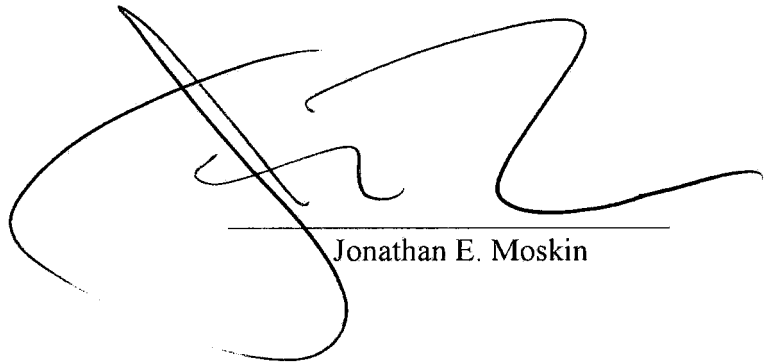
Attorneys for Opposer Citigroup Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of December 2008, I caused a copy of the foregoing **OPPOSER'S RENEWED MOTION TO COMPEL** to be served by e-mail and First Class Mail, postage prepaid, upon:

Robert B. Cohen
Lerner David Littenberg Krumholz & Mentlik, LLP
600 South Avenue West
Westfield, New Jersey 07090-1497
rcohen@ldlkm.com

Attorneys for Applicant
McGowan Communications, LLC



Jonathan E. Moskin

EXHIBIT A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

CITIGROUP INC.,

Opposer,

-against-

MCGOWAN COMMUNICATIONS, LLC,

Applicant.

Opposition No. 91175479

Serial No. 78486089

CITIGROUP'S FIRST SET OF INTERROGATORIES

Pursuant to Rule 33 of the Federal Rules of Civil Procedure and 37 C.F.R. § 2.120, Opposer Citigroup Inc. hereby requests that Applicant McGowan Communications, LLC answer, fully and separately, in writing and under oath, the Interrogatories set forth below, within thirty (30) days.

DEFINITIONS AND INSTRUCTIONS

1. Citigroup incorporates by reference the Definitions set forth in Citigroup's First Request for Production of Documents and Things.

2. In responding to each Interrogatory, McGowan is to review and search all relevant files of appropriate entities and persons.

3. If McGowan objects to the scope or breadth of an Interrogatory, McGowan should, to the extent possible, answer the Interrogatory notwithstanding the objection.

4. If McGowan cannot answer an Interrogatory in full, McGowan should answer to the extent possible, specifying the reasons for its inability to answer the remainder, and stating what information, knowledge, or belief he has concerning the unanswered portion.

5. If information is requested concerning the substantial terms of a written agreement or other written document, a copy of the agreement or other document may be annexed instead of further answer.

6. Where a claim of privilege is asserted in objecting to these Interrogatories, McGowan shall identify (a) the nature of the privilege (including work product) that is being claimed; (b) the type of document, e.g., letter or memorandum; (c) the general subject matter of the document; (d) the date of the document; (e) the authors of the document; (f) the addressees of the document; (g) the recipients of the document; and (h) where not apparent, the relationship of the authors, addressees, and recipients to each other.

7. Pursuant to Federal Rule of Civil Procedure 26(e), McGowan is under a continuing duty to furnish additional and supplemental information where such further information becomes known or available between the time of the initial response thereunder and the time of hearing or trial in this proceeding.

INTERROGATORIES

1. Identify the officers and directors of McGowan.
2. Identify any entities affiliated with or owned or controlled by McGowan, including for each of such entity by specifying the following:
 - a. its present organization and structure;
 - b. its directors, partners, corporate parents, subsidiaries, and affiliates; and
 - c. each person who occupies or has occupied any executive or managerial position within the organization structure, their duties and responsibilities (including without limitation the duties and responsibilities of McGowan himself), and the dates during which each person held such position.

3. Identify and describe the nature of any complaints, petitions, oppositions, objections, cancellations, administrative proceedings, legal opinions, cease and desist letters, or civil actions made by or against McGowan in which trademark-related issues were alleged.

4. Identify, and describe the roles and responsibilities of, all Persons who were responsible for, participated in, or have information concerning the creation, selection, adoption, or acquisition of McGowan's UNIVERSAL Mark.

5. State what McGowan contends is the English-language translation for the following elements of its trademark:

世界卡

6. Identify, and describe the roles and responsibilities of, the Persons who were responsible for, participated in, or have information concerning the first use and first use in commerce (if any) by McGowan of McGowan's UNIVERSAL Mark.

7. Set forth the date(s) of first use and first use in commerce (if any) by McGowan of McGowan's UNIVERSAL Mark and describe the circumstances thereof.

8. Identify all Persons who have information concerning McGowan's *bona fide* intention to use McGowan's UNIVERSAL Mark as of the filing date of the application at issue, including the nature of each such person's knowledge.

9. Describe all facts demonstrating or constituting McGowan's *bona fide* intention to use McGowan's UNIVERSAL Mark as of the filing date of the applications at issue

10. Identify all persons who have information concerning any business plans or projections, revenue projections, cost projections, and product plans or proposals as they relate to McGowan's UNIVERSAL Mark.

11. Describe any business plans or projections, revenue projections, cost projections, and product plans or proposals as they relate to McGowan's UNIVERSAL Mark.

12. Set forth the reasons for the selection of McGowan's UNIVERSAL Mark.

13. Describe any informal or formal market research conducted by McGowan or on McGowan's behalf concerning McGowan's UNIVERSAL Mark, including without limitation, studies, search reports, surveys, or market-research tests, and identify all Persons who were responsible for, participated in, or have information concerning the same.

14. Describe any market research conducted by McGowan or on McGowan's behalf concerning any marks held by Citigroup, including without limitation, studies, search reports, surveys, or market-research tests, and identify all Persons who were responsible for, participated in, or have information concerning the same.

15. Identify all Persons acting on McGowan's behalf (including persons employed by McGowan) who had notice, prior knowledge, or awareness of Citigroup's UNIVERSAL Mark, and describe the nature and extent of any such notice, prior knowledge, or awareness, including the date the knowledge was acquired, by what means and the substance thereof.

16. Identify all Persons who have information concerning Citigroup's use of Citigroup's UNIVERSAL Mark and for each such person, describe such information.

17. Identify all designations or marks other than McGowan's UNIVERSAL Mark considered by McGowan for use on the goods and services specified in the applications at issue,

identify all Persons who have information concerning the same, and for each such person, describe the nature and extent of information.

18. Identify all goods or services sold or distributed by McGowan bearing McGowan's UNIVERSAL Mark.

19. Separately for each year since the date of first use, set forth dollar and unit volume of sales McGowan's sales in the United States, if any, of goods or services bearing McGowan's UNIVERSAL Mark.

20. Separately for each year since the date such advertising or promotion commenced, set forth McGowan's yearly expenditures to date and any planned future expenditures to advertise, promote, or publicize goods or services bearing McGowan's UNIVERSAL Mark.

21. Identify the media in which McGowan (i) advertises or promotes or (ii) intends to advertise or promote goods or services bearing McGowan's UNIVERSAL Mark, including without limitation media schedules and budgets.

22. Identify all Persons who assisted, or consulted with, McGowan in advertising, promoting, and selling goods or services bearing McGowan's UNIVERSAL Mark.

23. Identify the persons with principal knowledge of McGowan's advertising or promotion or intended advertising or promotion of goods or services bearing McGowan's UNIVERSAL Mark.

24. Identify all territories, both domestic and international, through which McGowan offers, has offered, or will offer for sale goods or services bearing McGowan's UNIVERSAL Mark.

25. Identify the channels of distribution, domestic and international, through which McGowan offers, has offered, or intends to offer, for sale any goods or services bearing McGowan's UNIVERSAL Mark.
26. Identify the persons with principal knowledge of McGowan's distribution or sale or intended distribution or sale of goods or services bearing McGowan's UNIVERSAL Mark.
27. Identify and summarize the basic terms of all assignments, licenses, or other transfers to or from McGowan of any rights in or to McGowan's UNIVERSAL Mark.
28. Identify the types of customers, whether prospective or actual, to whom McGowan plans to or has marketed, advertised, promoted or sold goods and services bearing McGowan's UNIVERSAL Mark, including without limitation, customer profiles, and demographic studies and analyses.
29. Identify all persons who have inquired about, commented upon, or referred to Citigroup or Citigroup's goods or services and describe the nature and substance of any such inquiries.
30. Identify all objections, litigations, proceedings, or disputes relating to McGowan's registration or use of McGowan's UNIVERSAL Mark.
31. Identify all competitors of McGowan or Citigroup using marks incorporating the term UNIVERSAL or any variation thereof of which McGowan is aware, including without limitation, documents concerning any action taken against any such third party and how any such dispute was resolved, and any specimens of such third-party uses of such marks.
32. To the extent that a person or entity other than McGowan provided information or documents for responses to these Interrogatories and Citigroup's First Request for Production of Documents and Things, identify each such person or entity.

33. Identify all facts, information or documents on which McGowan relied for its denials in Paragraphs 1-6 and 8-14 of its Answer to Notice of Opposition.

34. Identify all persons who have information concerning each of McGowan's denials in Paragraphs 1-6 and 8-14 of its Answer to Notice of Opposition and summarize the information possessed by each such person.

Dated: New York, New York
July 5, 2007

Respectfully Submitted,

WHITE & CASE LLP

By: 

Jonathan Moskin

Stefan M. Mentzer

1155 Avenue of the Americas

New York, New York 10036

+1 212 819 8200

Attorneys for Opposer Citigroup Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of July, 2007, I caused a copy of the foregoing
CITIGROUP'S FIRST SET OF INTERROGATORIES to be served, by **E-MAIL & FIRST
CLASS MAIL, POSTAGE PREPAID**, upon:

Robert B. Cohen
Lerner David Littenberg Krumholz & Mentlik, LLP
600 South Avenue W Ste 3
Westfield, New Jersey 07090-1497
rcohen@ldlkm.com

Attorneys for Applicant McGowan Communications, LLC

/Stefan M. Mentzer/
Stefan M. Mentzer

EXHIBIT B

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

CITIGROUP INC.,

Opposer,

-against-

MCGOWAN COMMUNICATIONS, LLC,

Applicant.

Opposition No. 91175479

Serial No. 78486089

**CITIGROUP'S FIRST REQUEST FOR
PRODUCTION OF DOCUMENTS AND THINGS**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure and 37 C.F.R. § 2.120, Opposer Citigroup Inc. hereby requests that Applicant McGowan Communications, LLC produce the documents and things described below at the offices of White & Case LLP, 1155 Avenue of the Americas, New York, New York, 10036 within thirty (30) days.

DEFINITIONS

1. "Citigroup" means Citigroup Inc.
2. "Citigroup's UNIVERSAL Mark" means the mark UNIVERSAL used by Citigroup and its predecessor-in-interest on and in connection with credit cards.
3. "McGowan" means McGowan Communications, LLC and all of its predecessors, successors, subsidiaries, affiliated entities, controlled entities, parent companies, joint ventures, and related companies; present and former directors, officers, employees, agents, attorneys, and accountants; and any other person who currently or formerly acted or purported to act on their behalf.

4. “McGowan’s UNIVERSAL Mark” means the mark that is the subject of Application Serial No. 78486089.

5. “Communication” means the transmittal of information in the form of facts, ideas, inquiries, or otherwise.

6. “Concerning,” “regarding,” “relating to,” or “referring to” mean, in whole or in part, constituting, containing, comprising, concerning, referring to, embodying, connected to, relating to, reflecting, describing, analyzing, showing, evidencing, discussing, identifying, illustrating, stating, regarding, supporting, refuting, rebutting, responding to, commenting on, evaluating, about, in respect thereof, mentioning, dealing with, or in any way pertaining to, either explicitly or implicitly.

7. “Document” means all materials as defined in Federal Rule of Civil Procedure 34, including handwritten, printed, typed, recorded, photographic, and computer-generated materials of any kind or nature, however produced or reproduced, whether stored electrically, electronically, electromechanically, mechanically, magnetically, optically, or through other means, and includes any drafts, preliminary and preparatory materials, originals, copies, e-mails, attachments, exhibits, removable notes, and translations or summaries thereof.

8. “Identify” means, when referring to a person, to give, to the extent known, the person’s full name, present or last known address, and, when referring to a natural person, the present or last known place of employment. Once a person has been identified in accordance with this paragraph, only the name of that person need be listed in response to subsequent discovery requesting the identification of that person.

9. "Identify" means, when referring to documents, to give, to the extent known, the (a) type of document; (b) general subject matter; (c) date; and (d) authors, addressees, and recipients.
10. "Including" means including without limitation.
11. "Person" means any natural person or any business, legal, or government entity or association.
12. "Trademark" means trademarks, service marks, collective marks, and certification marks.
13. The terms "all" and "each" shall be construed as all and/or each.
14. The connectives "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
15. The use of the singular form of any word includes the plural and vice versa.

INSTRUCTIONS

1. If McGowan objects to the scope or breadth of any Request, McGowan should identify, to the extent possible, those documents that McGowan will produce.
2. Pursuant to Federal Rule of Civil Procedure 34(a), McGowan must produce all documents requested for inspection or copying either as they are kept in the ordinary course of business or segregated according to each Request.
3. Each document produced shall be identified in such production by the paragraph number(s) of the Request(s) with respect to which it is produced.

4. Produce all non-identical copies of documents. A document with handwritten notes, "blind" copy notes, editing marks, etc. is non-identical to one without such modifications, additions, or deletions.

5. Where a claim of privilege is asserted in objecting to these requests, McGowan shall identify (a) the nature of the privilege (including work product) that is being claimed; (b) the type of document, e.g., letter or memorandum; (c) the general subject matter of the document; (d) the date of the document; (e) the authors of the document; (f) the addressees of the document; (g) the recipients of the document; and (h) where not apparent, the relationship of the authors, addressees, and recipients to each other.

6. In the event that any of these requests calls for a document that has been lost or destroyed, or for information contained in such a document, such document is to be identified by stating (a) the type of document, e.g., letter or memorandum; (b) the general subject matter of the document; (c) the date of the document; (d) the authors of the document; (e) the addressees of the document; (f) the recipients of the document; (g) where not apparent, the relationship of the authors, addressees, and recipients to each other; (h) the custodians of the document or persons otherwise responsible for the document's safekeeping, storage, or filing; (i) the date the document was lost or destroyed; and (j) the circumstances surrounding the loss of the document and, if the document was destroyed, the reason for the circumstances surrounding its destruction.

7. Pursuant to Federal Rule of Civil Procedure 26(e), McGowan is under a continuing duty to furnish additional and supplemental documents where such further documents become known or available between the time of the initial response thereunder and the time of hearing or trial in this proceeding.

DOCUMENT REQUESTS

1. All documents identified in, or reviewed or relied upon to prepare McGowan's answers to Citigroup's Interrogatories.
2. Documents sufficient to show the corporate or business structure of McGowan and any of its predecessors, successors, subsidiaries, affiliated entities, controlled entities, parent companies, joint ventures, and related companies.
3. Documents sufficient to identify the names, duties, and responsibilities of McGowan's owners, officers, and directors.
4. All documents concerning the initiation and resolution of any complaints, petitions, oppositions, objections, cancellations, administrative proceedings, legal opinions, cease and desist letters, or civil actions made by or against McGowan in which trademark-related issues were alleged.
5. All documents concerning any communications between McGowan and any Person regarding McGowan's UNIVERSAL Mark, Citigroup's UNIVERSAL Mark, and any variants thereof.
6. All documents concerning McGowan's legal clearance of McGowan's UNIVERSAL Mark, including without limitation any trademark search reports.
7. All documents concerning the creation, selection, adoption, or acquisition of McGowan's UNIVERSAL Mark, including without limitation, any formal or informal trademark searches, investigations, or opinions of counsel regarding McGowan's UNIVERSAL Mark.
8. All documents concerning designations or marks other than McGowan's UNIVERSAL Mark considered by McGowan for use on the goods and services specified in the application at issue.

9. All documents concerning any change or modification of McGowan's UNIVERSAL Mark since the conception of McGowan's UNIVERSAL Mark.

10. All documents concerning any translations into English of McGowan's UNIVERSAL Mark, including all documents concerning what McGowan contends is the English-language translation for:

世界卡

11. All documents concerning the first use and first use in commerce (if any) by McGowan of McGowan's UNIVERSAL Mark.

12. All documents demonstrating McGowan's *bona fide* intention to use McGowan's UNIVERSAL Mark as of the filing dates of the application at issue.

13. All documents setting forth or concerning any business plans or projections, revenue projections, cost projections, and product plans or proposals as they relate to McGowan's UNIVERSAL Mark.

14. All documents concerning informal or formal market research conducted by McGowan or on McGowan's behalf concerning McGowan's UNIVERSAL Mark, including without limitation, studies, search reports, surveys, or market-research tests.

15. Documents sufficient to demonstrate all goods or services sold or distributed, or to be sold or distributed, by McGowan bearing McGowan's UNIVERSAL Mark, including without limitation all specimens of packaging or labeling.

16. Documents sufficient to establish all sales, or projected sales, by McGowan of any goods or services bearing McGowan's UNIVERSAL Mark, including without limitation, invoices, sales reports evidencing dollar and unit volume of sales.

17. All advertising or promotion for goods or services bearing McGowan's UNIVERSAL Mark, including without limitation, advertisements, promotional materials, sales materials, catalogues, brochures, and mailing and price lists, whether distributed publicly or not and including without limitation media schedules and budgets.

18. All documents setting forth or concerning any publicity for McGowan's UNIVERSAL Mark.

19. Documents sufficient to establish McGowan's yearly expenditures to date and planned future expenditures for the manufacture, production, and offering for sale of goods or services bearing McGowan's UNIVERSAL Mark.

20. Documents sufficient to establish McGowan's yearly expenditures to date and planned future expenditures to advertise, promote, or publicize goods or services bearing McGowan's UNIVERSAL Mark for each year in which McGowan advertised, promoted, or publicized these goods and services.

21. Documents sufficient to establish the target market or customers for sale of goods or services bearing McGowan's UNIVERSAL Mark.

22. Documents sufficient to establish the channels of distribution, domestic and international, through which McGowan offers, has offered, or will offer for sale goods or services bearing McGowan's UNIVERSAL Mark.

23. Documents sufficient to identify any sales agent, retailer, wholesaler, distributor, broker, or sales organization to which McGowan distributes or sells, has distributed or sold, or will distribute or sell goods or services bearing McGowan's UNIVERSAL Mark.

24. All documents concerning any assignment, license, or other transfer to or from McGowan of any right in McGowan's UNIVERSAL Mark.

25. All documents concerning any third-party agreements into which McGowan has entered to manufacture, sell, or distribute goods or services bearing McGowan's UNIVERSAL Mark or otherwise make use of McGowan's UNIVERSAL Mark.

26. All documents sufficient to identify the types of customers, whether prospective or actual, to whom McGowan has marketed, advertised, promoted or sold or intends to market, advertise, promote, or sell goods and services bearing McGowan's UNIVERSAL Mark, including without limitation, customer profiles, or demographic studies or analyses.

27. All documents concerning market research conducted by McGowan or on McGowan's behalf concerning any marks held by Citigroup, including without limitation, studies, search reports, surveys, or market-research tests.

28. All documents concerning any notice, prior knowledge, or awareness by McGowan of Citigroup's UNIVERSAL Mark, including without limitation trademark-search reports.

29. All documents concerning Citigroup or its use of Citigroup's UNIVERSAL Mark.

30. All documents concerning communications between McGowan and any other person in which a person inquired about, commented upon, or referred to Citigroup or Citigroup's goods or services in any way.

31. All documents concerning any instances in which any Person has expressed any actual or possible confusion, mistake, deception as to the source of goods or services offered by McGowan under McGowan's UNIVERSAL Mark and any goods or services offered by Citigroup under the Citigroup UNIVERSAL Marks.

32. All documents relating to any agreement between McGowan and any person concerning McGowan's UNIVERSAL Mark.

33. All documents concerning any objection, litigation, proceeding, or dispute relating to McGowan's registration or use of McGowan's UNIVERSAL Mark.

34. All documents concerning any third-party uses of Marks incorporating the term UNIVERSAL or any variation thereof of which McGowan is aware, including without limitation, documents concerning any action taken against any such third party and how any such dispute was resolved, and any specimens of such third-party uses of such marks.

35. All documents supporting each of McGowan's denials in Paragraphs 1-6 and 8-14 of its Answer to Notice of Opposition.

Dated: New York, New York
July 5, 2007

Respectfully Submitted,

WHITE & CASE LLP

By: 

Jonathan Moskin

Stefan M. Mentzer

1155 Avenue of the Americas

New York, New York 10036

212 819 8200

Attorneys for Opposer Citigroup Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of July, 2007, I caused a copy of the foregoing
**CITIGROUP'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS AND
THINGS** to be served by **E-MAIL & FIRST CLASS MAIL, POSTAGE PREPAID**, upon:

Robert B. Cohen
Lerner David Littenberg Krumholz & Mentlik, LLP
600 South Avenue W Ste 3
Westfield, New Jersey 07090-1497
rcohen@ldlkm.com

Attorneys for Applicant McGowan Communications, LLC

/Stefan M. Mentzer/
Stefan M. Mentzer

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

CITIGROUP INC.,

Opposer,

-against-

MCGOWAN COMMUNICATIONS, LLC,

Applicant.

Opposition No. 91175479

Serial No. 78486089

NOTICE OF RULE 30(b)(6) DEPOSITION OF MCGOWAN

PLEASE TAKE NOTICE that pursuant to Federal Rule of Civil Procedure 30(b)(6), opposer Citigroup Inc. ("Opposer" or "Citigroup"), by and through its attorneys, will take the deposition upon oral examination under oath of applicant McGowan Communications, LLC ("Applicant" or "McGowan"), on December 10, 2008 at 9:30 a.m., at the offices of White & Case LLP, 1155 Avenue of the Americas, New York, New York, or at such other time and place to be agreed upon. If the deposition is not completed on the agreed day, it will continue until completed with such adjournment as to time and place as may be necessary. The deposition will be taken before a qualified notary public or before some other officer authorized by law to administer oaths. The deposition will be recorded by stenographic, video, and/or audio means.

PLEASE TAKE FURTHER NOTICE that, pursuant to Federal Rule of Civil Procedure 30(b)(6), McGowan shall designate one or more of its employees who will testify on its behalf concerning the topics listed in Schedule A hereto.

Dated: New York, New York
December 3, 2008

Respectfully Submitted,

WHITE & CASE LLP

By: 

Jonathan Moskin

Stefan M. Mentzer

1155 Avenue of the Americas
New York, New York 10036
212 819 8200

Attorneys for Opposer Citigroup Inc.

SCHEDULE A

DEFINITIONS & INSTRUCTIONS

1. Citigroup hereby incorporates by reference the Definitions and Instructions set forth in Citigroup's First Request for Production of Documents and Things, dated July 5, 2007 (the "Document Requests").
2. Citigroup reserves the right to serve additional deposition notices on Yahoo! in this proceeding.

DEPOSITION TOPICS

1. All documents produced or to be produced in response to the Document Requests.
2. All facts responsive to Citigroup's First Set of Interrogatories, dated July 5, 2007.
3. The corporate or business structure of McGowan and any of its predecessors, successors, subsidiaries, affiliated entities, controlled entities, parent companies, joint ventures, and related companies.
4. The names, duties, and responsibilities of McGowan's owners, officers, and directors.
5. The creation, selection, adoption, or acquisition of McGowan's UNIVERSAL Mark, including without limitation, any formal or informal trademark searches, investigations, or opinions of counsel regarding McGowan's UNIVERSAL Mark.
6. The meaning of any translations of McGowan's UNIVERSAL Mark.
7. The use of McGowan's UNIVERSAL Mark, including without limitation:
 - a. The first use and first use in commerce (if any) by McGowan of McGowan's UNIVERSAL Mark;
 - b. McGowan's bona fide intention to use McGowan's UNIVERSAL Mark as of the filing dates of the application at issue; and

- c. Any business plans or projections, revenue projections, cost projections, and product plans or proposals as they relate to McGowan's UNIVERSAL Mark.
- 8. Any informal or formal market research conducted by McGowan or on McGowan's behalf concerning McGowan's UNIVERSAL Mark, including without limitation, studies, search reports, surveys, or market-research tests.
- 9. Any goods or services sold or distributed, or to be sold or distributed, by McGowan bearing McGowan's UNIVERSAL Mark, including without limitation all specimens of packaging or labeling.
- 10. Any sales, or projected sales, by McGowan of any goods or services bearing McGowan's UNIVERSAL Mark, including without limitation, invoices, sales reports evidencing dollar and unit volume of sales.
- 11. Any advertising or promotion for goods or services bearing McGowan's UNIVERSAL Mark, including without limitation, advertisements, promotional materials, sales materials, catalogues, brochures, and mailing and price lists, whether distributed publicly or not and including without limitation media schedules and budgets.
- 12. McGowan's yearly expenditures to date and planned future expenditures:
 - a. For the manufacture, production, and offering for sale of goods or services bearing McGowan's UNIVERSAL Mark; and
 - b. To advertise, promote, or publicize goods or services bearing McGowan's UNIVERSAL Mark for each year in which McGowan advertised, promoted, or publicized these goods and services.
- 13. The target market or customers for sale of goods or services bearing McGowan's UNIVERSAL Mark.

14. The territories, both domestic and international, through which McGowan offers, has offered, or will offer for sale goods or services bearing McGowan's UNIVERSAL Mark.

15. The channels of distribution, domestic and international, through which McGowan offers, has offered, or will offer for sale goods or services bearing McGowan's UNIVERSAL Mark.

16. Any sales agent, retailer, wholesaler, distributor, broker, or sales organization to which McGowan distributes or sells, has distributed or sold, or will distribute or sell goods or services bearing McGowan's UNIVERSAL Mark.

17. Any agreement, assignment, license, or other transfer concerning rights in McGowan's UNIVERSAL Mark or goods or concerning services bearing McGowan's UNIVERSAL Mark.

18. Any notice, prior knowledge, or awareness by McGowan of Citigroup's UNIVERSAL Mark, including without limitation trademark-search reports.

19. Any instances in which any Person has expressed any actual or possible confusion, mistake, deception as to the source of goods or services offered by McGowan under McGowan's UNIVERSAL Mark and any goods or services offered by Citigroup under the Citigroup UNIVERSAL Marks.

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of December 2008, I caused a copy of the foregoing NOTICE OF RULE 30(b)(6) DEPOSITION OF MCGOWAN to be served by e-mail and First Class Mail, postage prepaid, upon:

Robert B. Cohen
Lerner David Littenberg Krumholz & Mentlik, LLP
600 South Avenue West
Westfield, New Jersey 07090-1497
rcohen@ldlkm.com

Attorneys for Applicant
McGowan Communications, LLC


Stefan M. Mentzer

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

CITIGROUP INC.,

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NOTICE OF DEPOSITION OF ROBERT MCGOWAN

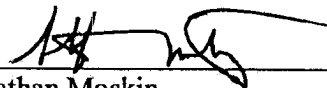
PLEASE TAKE NOTICE that pursuant to Federal Rule of Civil Procedure 30(b)(1),
opposer Citigroup Inc. ("Citigroup" or "Opposer"), by and through its attorneys, will take the
deposition upon oral examination under oath of Robert McGowan, beginning on December 10,
2008 at 9:30 a.m., at the offices of White & Case LLP, at 1155 Avenue of the Americas, New
York, New York, or at such other time and place to be agreed upon. If the deposition is not
completed on the agreed day, it will continue until completed with such adjournment as to time
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Dated: New York, New York
December 3, 2008

Respectfully Submitted,

WHITE & CASE LLP

By: 
Jonathan Moskin
Stefan M. Mentzer
1155 Avenue of the Americas
New York, New York 10036
212 819 8200

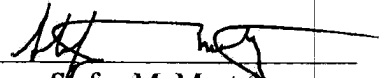
Attorneys for Opposer Citigroup Inc.

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McGowan Communications, LLC



Stefan M. Mentzer